

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 03-88(1) (DSD/JSM)

Melvin Dwayne Lockett,

Movant,

vs.

ORDER

United States of America,

Respondent.

Melvin Lockett moves the court to vacate his 262-month sentence, imposed pursuant to the Armed Career Criminal Act (ACCA). Lockett argues that two of his three prior felony convictions, both burglaries in violation of California law, are not predicates for the ACCA because burglary is not a violent felony. The government agrees that, in light of the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (June 26, 2015), Lockett is no longer covered by the ACCA. The government also agrees that Lockett's § 2255 petition should be granted, his sentence should be vacated, and he should be resentenced under 18 U.S.C. § 924(a)(2) to a term of imprisonment of 120 months in prison.

Based on the file, record, and proceedings herein, IT IS HEREBY ORDERED that:

- (1) Lockett's sentence is vacated;
- (2) Lockett is hereby resentenced to a term of 120 months in the custody of the Bureau of Prisons; and

- (3) Lockett is subject to a three-year term of supervised release under the same terms and conditions as originally ordered.

Dated: December 21, 2015

s/David S. Doty
David S. Doty, Judge
United States District Court